

# WEST VIRGINIA LEGISLATURE

## 2019 REGULAR SESSION



**Committee Substitute**

**for**

### **Senate Bill 1**

BY SENATORS CARMICHAEL (MR. PRESIDENT), SYPOLT,

CLINE, TAKUBO, BOSO, CLEMENTS, SWOPE, SMITH,

IHLENFELD, BALDWIN, STOLLINGS, WELD, AND PLYMALE

[Originating in the Committee on Education; reported

on January 15, 2019]

1 A BILL to amend and reenact §18-2-6 of the Code of West Virginia, 1931, as amended; to amend  
2 said code by adding thereto a new section, designated §18-2E-11; to amend and reenact  
3 §18-9A-2 of said code; and to amend said code by adding thereto a new article,  
4 designated §18C-9-1, §18C-9-2, §18C-9-3, §18C-9-4, §18C-9-5, and §18C-9-6, all  
5 relating generally to increasing access to career education and workforce training;  
6 establishing Advanced Career Education (ACE) programs and pathways; providing that  
7 certain individuals who have completed a secondary education program in a public,  
8 private, or home school shall be considered adults enrolled in regular secondary programs  
9 for funding purposes; requiring community and technical colleges establish partnerships  
10 with career technical education centers, county boards of education, or both that provide  
11 for ACE programs; providing requirements for ACE programs and pathways; requiring the  
12 Board of Education and the West Virginia Council for Community and Technical College  
13 Education promulgate joint guidelines; requiring the Division of Vocational Education and  
14 the council maintain and annually report certain information; providing that community and  
15 technical colleges and career technical education centers shall participate in one or more  
16 ACE partnerships in order to receive certain funding; establishing the WV Invests Grant  
17 Program; defining terms; authorizing the council to award WV Invests Grants under certain  
18 terms and conditions; requiring the council to report certain information on the WV Invests  
19 Grant Program; requiring the council to propose legislative rules; providing eligibility and  
20 renewal requirements for a WV Invests Grant; requiring applicants enter into certain  
21 agreements; and establishing the WV Invests Fund.

*Be it enacted by the Legislature of West Virginia:*

## **CHAPTER 18. EDUCATION.**

### **ARTICLE 2. STATE BOARD OF EDUCATION.**

**§18-2-6. Classification and standardization of schools; standards for degrees and**

diplomas; certificates of proficiency; establishment of alternative education programs.

(a) The state board shall promulgate rules for the accreditation, classification, and standardization of all schools in the state, except institutions of higher education, and shall determine the minimum standards for granting diplomas, advanced certifications, and certificates of proficiency by those schools.

(1) The certificates of proficiency shall include specific information regarding the graduate's skills, competence and readiness for employment, or honors and advanced education and shall be granted, along with the diploma, to every eligible high school graduate.

(2) The certificate of proficiency shall include the program of study major completed by the student only for those students who have completed the required major courses, or higher level courses, advanced placement courses, college courses, or other more rigorous substitutes related to the major, and the recommended electives.

(3) Students that have completed a secondary education program in a public, private, or home school and have continued to be enrolled in a program leading to an advanced certification or an advanced career education program shall be considered adults enrolled in regular secondary programs in accordance with §18-9A-2(i) of this code.

(b) An institution of less than collegiate or university status may not grant any diploma or certificate of proficiency on any basis of work or merit below the minimum standards prescribed by the state board.

(c) A charter or other instrument containing the right to issue diplomas or certificates of proficiency may not be granted by the State of West Virginia to any institution or other associations or organizations of less than collegiate or university status within the state until the condition of granting or issuing the diplomas or other certificates of proficiency has first been approved in writing by the state board.

(d) The state board shall promulgate a rule for the approval of alternative education

25 programs for disruptive students who are at risk of not succeeding in the traditional school  
26 structure.

27 (1) This rule may provide for the waiver of other policies of the state board, the  
28 establishment and delivery of a nontraditional curriculum, the establishment of licensure  
29 requirements for alternative education program teachers, and the establishment of performance  
30 measures for school accreditation.

31 (2) This rule shall provide uniform definitions of disruptive student behavior and uniform  
32 standards for the placement of students in alternative settings or providing other interventions  
33 including referrals to local juvenile courts to correct student behavior so that they can return to a  
34 regular classroom without engaging in further disruptive behavior.

35 (e) The state board shall establish up to five pilot projects at the elementary or middle  
36 school levels, or both, that employ alternative schools or other placements for disruptive students  
37 to learn appropriate behaviors so they can return to the regular classroom without further  
38 disrupting the learning environment. The state board shall report to the Legislative Oversight  
39 Commission on Education Accountability by December 1, 2010, on its progress in establishing  
40 the pilot projects and by December 1 in each year after that for the duration of the pilot projects  
41 on the effect of the projects on maintaining student discipline.

42 (f) If a student attends an approved alternative education program or the Mountaineer  
43 Challenge Academy, which is designated as a special alternative education program pursuant to  
44 §15-1B-24 of this code, and the student graduates or passes the General Equivalency  
45 Development tests within five years of beginning ninth grade, that student shall be considered  
46 graduated for the purposes of calculating the high school graduation rate used for school  
47 accreditation and school system approval, subject to the following:

48 (1) The student shall be considered graduated only to the extent that this is not in conflict  
49 with any provision of federal law relating to graduation rates;

50 (2) If the state board determines that this is in conflict with a provision of federal law relating

51 to graduation rates, the state board shall request a waiver from the United States Department of  
52 Education; and

53 (3) If the waiver is granted, notwithstanding the provisions of §18-2-6(f)(1) of this code, the  
54 student graduating or passing the ~~General Educational Development~~ high school equivalency  
55 tests within five years shall be considered graduated.

56 (g) The state board shall promulgate a rule to support the operation of the National Guard  
57 Youth Challenge Program operated by the Adjutant General and known as the Mountaineer  
58 Challenge Academy which is designated as a special alternative education program pursuant to  
59 §15-1B-24 of this code for students who are at risk of not succeeding in the traditional school  
60 structure. The rule shall set forth policies and procedures applicable only to the Mountaineer  
61 Challenge Academy that provide for, but are not limited to, the following:

62 (1) Implementation of provisions set forth in §15-1B-24 of this code;  
63 (2) Precedence of the policies and procedures designated by the National Guard Bureau  
64 for the operation of the Mountaineer Challenge Academy special alternative education program;

65 (3) Consideration of a student participating in the Mountaineer Challenge Academy special  
66 alternative education program at full enrollment status in the referring county for the purposes of  
67 funding and calculating attendance and graduation rates, subject to the following:

68 (A) The student shall be considered at full enrollment status only for the purposes of  
69 calculating attendance and graduation rates to the extent that this is not in conflict with any  
70 provision of federal law relating to attendance or graduation rates;

71 (B) If the state board determines that this is in conflict with a provision of federal law  
72 relating to attendance or graduation rates, the state board shall request a waiver from the United  
73 States Department of Education;

74 (C) If the waiver is granted, notwithstanding the provisions of §18-2-6(g)(3)(A) of this code,  
75 the student shall be considered at full enrollment status in the referring county for the purposes  
76 of calculating attendance and graduation rates; and

(D) Consideration of the student at full enrollment status in the referring county is for the purposes of funding and calculating attendance and graduation rates only. For any other purpose, a student participating in the academy is considered withdrawn from the public school system;

(4) Articulation of the knowledge, skills, and competencies gained through alternative education so that students who return to regular education may proceed toward attainment or attain the standards for graduation without duplication;

(5) Consideration of eligibility to take the General Educational Development tests by  
ing within the extraordinary circumstances provisions established by state board rule for a  
t participating in the Mountaineer Challenge Academy special alternative education  
m who does not meet any other criteria for eligibility; and

(6) Payment of tuition by a county board to the Mountaineer Challenge Academy for each student graduating from the academy with a high school diploma that resides in that county school district. For purposes of this subdivision, "tuition" means an amount equal to 75 percent of the amount allotted per pupil under the school aid formula.

(h) Nothing in this section or the rules promulgated under this section compels the Pioneer Challenge Academy to be operated as a special alternative education program or to subject to any other laws governing the public schools except by its consent.

(i) The Legislature makes the following findings regarding students at risk:

(1) *Defeated and discouraged learners.* —

(A) Any child who is unlikely to graduate on schedule with both the skills and self-esteem necessary to exercise meaningful options in the areas of work, leisure, culture, civic affairs, and social relationships may be defined as being an at-risk student;

(B) Problems associated with students at risk often begin for them in the early grades as they gradually fall further behind in the essential skills of reading, writing, and math;

(C) These problems may be accompanied by such behavior patterns as poor attendance, timeliness, negative attitudes, and acting out in class. These patterns are both symptoms of

103 and added catalysts for students to become increasingly defeated and discouraged learners;  
104 (D) By the middle grades, students with growing skill deficits usually know they are behind  
105 other students and have good reason to feel discouraged. A growing lack of self-confidence and  
106 self-worth, limited optimism for the future, avoidance of school and adults, and a dimming view of  
107 the relationship between effort and achievement are among the characteristics of defeated and  
108 discouraged learners;

109 (E) Public schools are expected to address the needs of all students, minimizing the  
110 likelihood that they will become at risk and giving additional attention to those who do; however,  
111 the circumstances involved with a child becoming at risk often are complex and may include  
112 influences both within and outside of the school environment; and

113 (F) In fragile homes, a child who is at risk and is becoming a discouraged and defeated  
114 learner often lacks adequate support and may develop peer relationships that further exacerbate  
115 the difficulty of reengaging him or her in learning, school, and responsible social behavior.

116 (2) The Legislature further finds that the public schools should not be deterred from  
117 seeking and assisting with enrollment of students in an alternative program that helps remedy the  
118 discouragement, lessens skill deficits, and facilitates a successful return to public school.

119 For this purpose, subject to approval of the county superintendent, a student enrolled in  
120 the public schools of the county may continue to be enrolled while also enrolled in an alternative  
121 program subject to the following conditions:

122 (1) The alternative program is approved by the state board;

123 (2) The student meets the general description of an at-risk student and exhibits behaviors  
124 and characteristics associated with a discouraged and defeated learner;

125 (3) The alternative program complies with all requests of the county superintendent for  
126 information on the educational program and progress of the student;

127 (4) The alternative program includes a family involvement component in its program. This  
128 component shall include, but is not limited to, providing for student and parent participation in

129 activities that help address the challenging issues that have hindered the student's engagement  
130 and progress in learning;

131 (5) The alternative program includes an on-site boarding option for students;

132 (6) The alternative program provides an individualized education program for students that  
133 is designed to prepare them for a successful transition back into the public schools; and

134 (7) The parents or legal guardian of the student make application for enrollment of the  
135 student in the alternative program, agree to the terms and conditions for enrollment, and enroll  
136 the student in the program.

## **ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.**

### **§18-2E-11. Advanced Career Education (ACE).**

1 (a) The Legislature hereby makes the following findings:

2 (1) Preparing West Virginia students to achieve post-secondary career education and to  
3 excel in the workforce is a responsibility shared among all state education agencies and  
4 institutions. The state's education agencies and institutions can fulfill this responsibility by  
5 establishing partnerships that enable students to attain advanced career education and valuable  
6 workforce skills in a more efficient and advantageous manner;

7 (2) The formation of partnerships between public secondary schools and community and  
8 technical colleges which establish advanced career education programs would ensure that a full  
9 range of community and technical college programs and services are provided in all areas of the  
10 state;

11 (3) Programs which create clear and efficient pathways that begin during secondary  
12 education and lead to obtaining advanced certifications and associate degrees will increase the  
13 number of students that ultimately obtain a post-secondary credential or degree; and

14 (4) West Virginia's economic prosperity is directly tied to the level and quality of its  
15 workforce career education. Providing the students of this state with increased access to career  
16 education will not only improve the general well-being of its citizens, but greatly enhance the

17 economic prosperity of the state.

18 (b) The purpose of this section and the Advanced Career Education (ACE) programs  
19 authorized herein is to connect secondary schools with community and technical colleges to  
20 accomplish the following:

21 (1) Prepare secondary students for success in post-secondary education and the  
22 workforce; and

23 (2) Provide more opportunities for secondary students to earn post-secondary college  
24 credits, certifications, and associate degrees.

25 (c) To effectuate the purposes set forth in §18-2E-11(b) of this code, the community and  
26 technical colleges and the career technical education centers, county boards of education, or both  
27 in this state shall establish partnerships that provide for ACE programs which feature defined  
28 pathways that begin when a student is in secondary education and that ultimately lead to  
29 associate degrees awarded by community and technical colleges. ACE programs shall be equally  
30 available to public, nonpublic, and homeschool students.

31 (d) ACE programs shall include pathways that consist of a curriculum of courses leading  
32 to an associate degree that has been deemed to satisfy a workforce need as determined by the  
33 Department of Commerce. The Department of Commerce shall, on occasion, but at least  
34 annually, provide written notification to the State Board of Education and the West Virginia Council  
35 for Community and Technical College Education a determination of areas of workforce need  
36 within the state.

37 (e) The State Superintendent of Schools and the Chancellor of the Council for Community  
38 and Technical College Education, or their designees, shall facilitate the ACE programs. At a  
39 minimum, an ACE program shall satisfy the following objectives:

40 (1) Provide additional opportunities to students in this state to attain college credentials  
41 through ACE pathways;

42 (2) Increase the number of students in this state that attain college credentials through

43     ACE pathways:

44         (3) Allow students in this state to attain college credentials through ACE pathways at little

45         or no cost;

46         (4) Ensure that ACE pathways provide a clear roadmap to the courses and requirements

47         necessary to attain college credentials; and

48         (5) Ensure that course requirements within ACE pathways are not duplicated.

49         (f) The board and council shall jointly promulgate guidelines for the administration of ACE

50         programs and pathways, which must be affirmatively adopted by both the board and the council.

51         At a minimum, such guidelines shall provide for the following:

52             (1) That ACE program partnerships established between community and technical

53             colleges and career technical education centers, county boards of education, or both shall be

54             reduced to written partnership agreements;

55             (2) The information required to be contained within partnership agreements;

56             (3) That ACE programs and pathways must meet the requirements of the accrediting entity

57             for the community and technical college awarding the associate degrees;

58             (4) That partnership agreements shall be approved by the State Superintendent of

59             Schools and the Chancellor for the Council for Community and Technical College Education; and

60             (5) Any other provisions necessary to effectuate the purposes of this section.

61         (g) The Division of Vocational Education and the council shall maintain and annually report

62         to the Governor and the Legislative Oversight Commission on Education Accountability the

63         following information about ACE programs:

64             (1) The identity and number of partnership agreements;

65             (2) The ACE programs and pathways that are being utilized by career technical education

66             centers, county board of educations, and community and technical colleges; and

67             (3) The nature and number of degrees and certifications awarded to students participating

68             in ACE programs by each community and technical college and career technical education center.

## ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

### §18-9A-2. Definitions.

1        For the purpose of this article:

2        (a) "State board" means the West Virginia Board of Education.

3        (b) "County board" or "board" means a county board of education.

4        (c) "Professional salaries" means the state legally mandated salaries of the professional  
5        educators as provided in §18A-4-1 *et seq.* of this code.

6        (d) "Professional educator" shall be synonymous with and shall have the same meaning  
7        as "teacher" as defined in §18-1-1 of this code, and includes technology integration specialists.

8        (e) "Professional instructional personnel" means a professional educator whose regular  
9        duty is as that of a classroom teacher, librarian, attendance director, or school psychologist. A  
10      professional educator having both instructional and administrative or other duties shall be  
11      included as professional instructional personnel for that ratio of the school day for which he or she  
12      is assigned and serves on a regular full-time basis in appropriate instruction, library, attendance,  
13      or psychologist duties.

14        (f) "Professional student support personnel" means a "teacher" as defined in §18-1-1 of  
15      this code who is assigned and serves on a regular full-time basis as a counselor or as a school  
16      nurse with a bachelor's degree and who is licensed by the West Virginia Board of Examiners for  
17      Registered Professional Nurses. For all purposes except for the determination of the allowance  
18      for professional educators pursuant to §18-9A-4 of this code, professional student support  
19      personnel are professional educators.

20        (g) "Service personnel salaries" means the state legally mandated salaries for service  
21      personnel as provided in §18A-4-8a of this code.

22        (h) "Service personnel" means all personnel as provided in §18A-4-8 of this code. For the  
23      purpose of computations under this article of ratios of service personnel to net enrollment, a  
24      service employee shall be counted as that number found by dividing his or her number of

25 employment days in a fiscal year by 200: *Provided*, That the computation for any service person  
26 employed for three and one-half hours or less per day as provided in §18A-4-8a of this code shall  
27 be calculated as one half an employment day.

28 (i) "Net enrollment" means the number of pupils enrolled in special education programs,  
29 kindergarten programs, and grades one to 12, inclusive, of the public schools of the county. Net  
30 enrollment further shall include:

31 (1) Adults enrolled in regular secondary vocational programs ~~existing as of the effective~~  
32 ~~date of this section~~, subject to the following:

33 (A) Net enrollment includes no more than ~~one thousand 2,500~~ of those adults counted on  
34 the basis of full-time equivalency and apportioned annually to each county to support Advanced  
35 Career Education programs, as provided in §18-2E-11 of this code, in proportion to the adults  
36 participating in regular secondary vocational programs in the prior year counted on the basis of  
37 full-time equivalency: *Provided*, That beginning with the 2021 fiscal year and every year  
38 thereafter, a career technical education center may only receive the funding for enrollment as  
39 authorized by this paragraph if the center has satisfied the requirements of §18-2E-11 of this  
40 code; and

41 (B) Net enrollment does not include any adult charged tuition or special fees beyond that  
42 required of the regular secondary vocational student;

43 (2) Students enrolled in early childhood education programs as provided in §18-5-44 of  
44 this code, counted on the basis of full-time equivalency;

45 (3) No pupil ~~shall~~ may be counted more than once by reason of transfer within the county  
46 or from another county within the state, and no pupil ~~shall~~ may be counted who attends school in  
47 this state from another state;

48 (4) The enrollment shall be modified to the equivalent of the instructional term and in  
49 accordance with the eligibility requirements and rules established by the state board; and

50 (5) For the purposes of determining the county's basic foundation program only, for any

51 county whose net enrollment as determined under all other provisions of this definition is less than  
52 1,400, the net enrollment of the county shall be increased by an amount to be determined in  
53 accordance with the following:

54 (A) Divide the state's lowest county student population density by the county's actual  
55 student population density;

56 (B) Multiply the amount derived from the calculation in §18-9A-2(i)(5)(A) of this code by  
57 the difference between 1,400 and the county's actual net enrollment;

58 (C) If the increase in net enrollment as determined under this subdivision plus the county's  
59 net enrollment as determined under all other provisions of this subsection is greater than 1,400,  
60 the increase in net enrollment shall be reduced so that the total does not exceed 1,400; and

61 (D) During the 2008-2009 interim period and every three interim periods thereafter, the  
62 Legislative Oversight Commission on Education Accountability shall review this subdivision to  
63 determine whether or not these provisions properly address the needs of counties with low  
64 enrollment and a sparse population density.

65 (j) "Sparse-density county" means a county whose ratio of net enrollment, excluding any  
66 increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition  
67 of "net enrollment", to the square miles of the county is less than five.

68 (k) "Low-density county" means a county whose ratio of net enrollment, excluding any  
69 increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition  
70 of "net enrollment", to the square miles of the county is equal to or greater than five but less than  
71 10.

72 (l) "Medium-density county" means a county whose ratio of net enrollment, excluding any  
73 increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition  
74 of "net enrollment", to the square miles of the county is equal to or greater than 10 but less than  
75 20.

76 (m) "High-density county" means a county whose ratio of net enrollment, excluding any

77 increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition  
78 of "net enrollment", to the square miles of the county is equal to or greater than 20.

79 (n) "Levies for general current expense purposes" means 90 percent of the levy rate for  
80 county boards of education calculated or set by the Legislature pursuant to §11-8-6f of this code.

81 (o) "Technology integration specialist" means a professional educator who has expertise  
82 in the technology field and is assigned as a resource teacher to provide information and guidance  
83 to classroom teachers on the integration of technology into the curriculum.

84 (p) "State aid eligible personnel" means all professional educators and service personnel  
85 employed by a county board in positions that are eligible to be funded under this article and whose  
86 salaries are not funded by a specific funding source such as a federal or state grant, donation,  
87 contribution, or other specific funding source not listed.

## **CHAPTER 18C. STUDENT LOANS; SCHOLARSHIPS AND STATE AID.**

### **ARTICLE 9. WEST VIRGINIA INVESTS GRANT PROGRAM.**

#### **§18C-9-1. Short title.**

1 This article shall be known and may be cited as the WV Invests Grant Program.

#### **§18C-9-2. Legislative findings and purpose.**

1 (a) The Legislature hereby finds and declares that:

2 (1) Every West Virginian should have access to education and training that will lead  
3 directly to quality employment opportunities within the state. In order for West Virginia to retain  
4 and attract business and industry, it must ensure that its workforce has such education and  
5 training;

6 (2) West Virginia currently faces a human capital crisis, as the state regularly ranks  
7 amongst the lowest states in the nation in workforce participation rates. Improving the state's  
8 workforce participation rates and the level of the workforce's career education is critical to  
9 economic development and making West Virginia a more prosperous state;

(3) The 2017 West Virginia Forward Report, a strategy for economic development and job growth, found that "investments in improving human capital are considered the most significant opportunity for improvement in West Virginia, especially because access to a specialized workforce is a significant factor for investment attraction...";

(4) According to the United States Department of Labor's Bureau of Labor Statistics, the median yearly earnings of an individual with an associate's degree is approximately \$6,604 more than an individual with only a high school diploma. Therefore, any investment by the state into a citizen obtaining such a degree would be repaid multiple times over through the citizen's increased contributions to the economy and tax base:

(5) West Virginia is currently facing a devastating drug epidemic, and the hope that comes with increased access to career education and higher quality employment opportunities is an indispensable tool against the spread of drug addiction; and

(6) An investment by the state into increasing access to post-secondary career education will provide its citizens the hope and opportunity for better career opportunities, and provide the state with the trained workforce needed to attract significant economic development.

(b) The purpose of this article is to provide West Virginians with hope and economic prosperity by increasing access to a higher level of career education that is needed to fulfill the needs of today's workforce and provide for further economic development.

### §18C-9-3. Definitions.

As used in this article:

(1) "Council" means the West Virginia Council for Community and Technical College

(2) "Eligible institution" means a public community and technical college institution under the authority of the West Virginia Council for Community and Technical College Education satisfying the requirements of participating in Advanced Career Education (ACE) program partnerships in accordance with §18-2E-11 of this code:

8                   (3) "Eligible post-secondary program" means a curriculum of courses leading to a  
9                   certificate or associate degree at an eligible institution which satisfies a course of study that has  
10                   been deemed to satisfy a workforce need as determined by the Department of Commerce in  
11                   accordance with §18-2E-11(d) of this code; and

12                   (4) "Tuition" means the semester or term charges imposed by an eligible institution and,  
13                   additionally, all mandatory fees required as a condition of enrollment by all students.

**§18C-9-4. WV Invests Grant Program.**

1                   (a) There is hereby created a grant program known as the WV Invests Grant Program,  
2                   which shall be administered by the vice chancellor for administration in accordance with this  
3                   article.

4                   (b) The council shall award WV Invests Grants pursuant to the following terms and  
5                   conditions:

6                   (1) A WV Invests Grant may only be awarded to applicants satisfying the requirements  
7                   provided in §18C-9-5 of this code;

8                   (2) The maximum amount of a WV Invests Grant shall be the cost of tuition charged to all  
9                   students for coursework leading to completion of the chosen associate degree or certificate, less  
10                   all other state and federal scholarships and grants for which the student is eligible. All other state  
11                   and federal scholarships and grants for which the grant recipient is eligible shall be deducted from  
12                   the amount of the WV Invests Grant for each individual student;

13                   (3) Grant payments shall be made directly to the eligible institutions;

14                   (4) If a grant recipient transfers from one eligible institution to another, the grant is  
15                   transferable only with approval of the vice chancellor for administration;

16                   (5) A WV Invests Grant may be used at any eligible institution to seek an associate degree  
17                   or certificate in an eligible post-secondary program. An institution is not required to accept a grant  
18                   recipient for enrollment and may enforce its own admission requirements, standards, and policies;  
19                   and

20                   (6) If a WV Invests Grant recipient terminates enrollment for any reason during the  
21 academic year, the unused portion of the grant shall be returned by the institution to the council  
22 in accordance with the council's policy for issuing refunds. The council shall transfer such funds  
23 to the WV Invests Fund for allocation and expenditure.

24                   (c) On or before January 1 of each year, the council shall provide to the Legislature and  
25 the Governor a report on the WV Invests Grant Program, which shall include, but not be limited  
26 to, research and data concerning student success and grant retention.

27                   (d) The council shall propose legislative rules for legislative approval pursuant to §29A-  
28 3A-1 *et seq.* of this code to implement the provisions of this article, which shall provide for:

29                   (1) Application requirements and deadlines;

30                   (2) Appeal procedures for the denial or revocation of the grant; and

31                   (3) Any other provisions necessary to effectuate the purposes of this article.

32                   (e) The Legislature hereby declares that an emergency situation exists and, therefore, the  
33 council may establish, by emergency rule, under the procedures of §29A-3A-1 *et seq.* of this code,  
34 a rule to implement the provisions of this article.

35                   (f) Beginning with the 2021 fiscal year, and for every fiscal year thereafter, any  
36 appropriation by the Legislature to support and or alleviate the cost to citizens in this state to  
37 obtain advanced certifications and associate degrees shall only be distributed to those community  
38 and technical colleges that form one or more partnerships to establish ACE programs and  
39 pathways. Once distributed, such funds may be used to support any program or pathway leading  
40 to the award of an associate degree or certification.

#### **§18C-9-5. Eligibility requirements; agreements.**

1                   (a) To be eligible for a WV Invests Grant, an individual must satisfy the following  
2 requirements:

3                   (1) Be a citizen or legal resident of the United States and have been a resident of West  
4 Virginia for at least one year immediately preceding the date of application for a grant;

5                   (2) Have completed a secondary education program in a public, private, or home school;

6                   (3) Have not been previously awarded a post-secondary degree;

7                   (4) Be at least 18 years of age: *Provided*, That individuals younger than 18 years of age

8                   may qualify for the grant upon completion of a secondary education program in a public, private,

9                   or home school;

10                   (5) Meet the admission requirements of, and be admitted into, an eligible institution;

11                   (6) Satisfactorily meet any additional qualifications of enrollment, academic promise, or

12                   achievement as established by the council through rule;

13                   (7) Have filed a completed Free Application for Federal Student Aid for the academic year

14                   in which the grant award is sought;

15                   (8) Be enrolled in an eligible post-secondary program;

16                   (9) Be enrolled in at least six credit hours per semester;

17                   (10) Have completed a WV Invests Grant application as provided by the council in

18                   accordance with a schedule established by the council; and

19                   (11) Have, prior to the start of each semester, satisfactorily passed a drug test

20                   administered by the eligible institution: *Provided*, That the applicant shall be responsible for the

21                   actual cost of the drug test.

22                   (b) Each grant may be renewed until the course of study is completed, as long as the

23                   following qualifications, as determined by the vice chancellor for administration and council, are

24                   satisfied:

25                   (1) Maintaining satisfactory academic standing, including a cumulative grade point

26                   average of at least 2.0;

27                   (2) Making adequate progress toward completion of the eligible post-secondary program;

28                   (3) Satisfactory participation in a community service program authorized by the council.

29                   The council shall include in its legislative rules required by §18C-9-4 of this code provisions for

30                   the administration of community service requirements, including, but not limited to, requiring

31 completion of at least eight hours of unpaid community service during the time of study, which  
32 may include, but is not limited to, participating with nonprofit, governmental, institutional, or  
33 community-based organizations designed to improve the quality of life for community residents,  
34 meet the needs of community residents, or foster civic responsibility;

35 (4) Continued satisfaction of eligibility requirements provided by §18C-9-5(a) of this code;  
36 and

37 (5) Satisfaction of any additional eligibility criteria established by the council through  
38 legislative rule.

39 (c) Each recipient of a WV Invests Grant shall enter into an agreement with the vice  
40 chancellor for administration, which shall require repayment of an amount of the grant(s) awarded  
41 to the recipient, in whole or in part, if a recipient chooses to reside outside the state within two  
42 years following obtainment of the degree or certificate for which the grant(s) was awarded. The  
43 council may not require a recipient to repay grants, in whole or in part, unless the prospective  
44 recipient has been informed of this requirement in writing before initial acceptance of the grant  
45 award. Each WV Invests Grant agreement shall include the following:

46 (1) Disclosure of the full terms and conditions under which assistance under this article is  
47 provided and under which repayment may be required; and

48 (2) A description of the appeals procedure required to be established under this article.

49 (d) WV Invests Grant recipients found to be in noncompliance with the agreement entered  
50 into under §18C-9-5(c) of this code shall be required to repay the amount of the grant awards  
51 received, plus interest, and, where applicable, reasonable collection fees, on a schedule and at a  
52 rate of interest prescribed in rules promulgated by the council. The council shall also provide for  
53 proration of the amount to be repaid by a recipient who maintains employment in the state for a  
54 period of time within the time period required under §18C-9-5(c) of this code.

55 (e) A recipient is not in violation of an agreement entered into pursuant to §18C-9-5(c) of  
56 this code during any period in which the recipient is meeting any of the following conditions:

57                   (1) Pursuing a half-time course of study at an accredited institution of higher education;  
58                   (2) Serving as a member of the armed services of the United States;  
59                   (3) Failing to comply with the terms of the agreement due to death or permanent or  
60                   temporary disability as established by sworn affidavit of a qualified physician; or  
61                   (4) Satisfying the provisions of any additional repayment exemptions prescribed by the  
62                   council through rule.

**§18C-9-6. WV Invests Fund; established.**

1                   (a) There is hereby created in the State Treasury a special revenue fund to be known as  
2                   the WV Invests Fund, which may consist of:  
3                   (1) All appropriations by the Legislature for the WV Invests Fund;  
4                   (2) Any gifts, grants, or contributions received for the WV Invests Fund; and  
5                   (3) All interest or other income earned from investment of the WV Invests Fund.  
6                   (b) The WV Invests Fund shall be expended for the purpose of administering the WV  
7                   Invests Grant Program, including the awarding of grants authorized by this article. Any funds  
8                   remaining in the fund at the close of the fiscal year are carried forward for use in the next fiscal  
9                   year.

10                   (c) Nothing in this section requires any specific level of funding by the Legislature nor  
11                   guarantees or entitles any individual to any benefit or grant of funds.  
12                   (d) The vice chancellor for administration may expend the moneys in the fund to implement  
13                   the provisions of this article.